

REMARKS

Applicants respectfully request the Examiner to consider the request for continued examination filed concurrently herewith, and the claim amendments to Claims 1, 14, 21, 24, 28 and 30 and new Claims 32-57. The claim amendments and new claims presented herein are believed to better describe Applicants' claimed subject matter and to patentably distinguish the claimed subject matter over the prior art of record.

It is respectfully submitted that the claim amendments and new claims are in line with the guidance provided by the Board of Patent Appeals and Interferences (BPAI) in its two issued decisions in this application. The BPAI interpreted the language payment account "configured for storing funds therein" as not requiring "actual funds, only that the accounts are configured so as to be able to store funds." The BPAI concludes that an account, as the accounts taught by Bogosian et al., which is "linked to a credit card for funds transfer is capable of [or configured for] storing funds." See BPAI decision of January 10, 2008, page 3, line 14 to page 4, line 3; page 5, lines 13-22.; see also BPAI decision of August 22, 2007, page 15, lines 1-9; page 18, lines 1-9; page 19, lines 1-6.

Using the BPAI's decisions as a guidance, Applicants herein amended independent Claims 1, 14, 21, 24, 28 and 30 to recite language that the claimed payment account(s) store funds (as opposed to being configured for storing funds or capable of storing funds) and these stored funds are used for effecting payment for user transactions. The new claim language patentably distinguishes Applicants' systems and methods over the teachings of Bogosian et al.

In particular, the claim amendments presented herein for Claim 1 provide that Applicants' payment accounts **store funds** after the funds are obtained from a payment source for effecting payment for network transactions. With respect to independent Claims 14, 21, 24, 28 and 30, the claim amendments provide that funds are **transferred and stored within the recited payment accounts** (Claims 14 and 21), **payment account** (Claim 24) and **accounts** (Claims 28 and 30) and **these funds are used for effecting payment**.

According to Applicants' claims, funds are used for effecting payment by "debiting an electronic auction payment account [storing funds therein]" (Claims 1 and 14); "debiting actual funds stored within the electronic auction payment account" (Claim 21); "debiting the payment account corresponding to the user of the electronic auction web site and crediting at least one account to effect payment for the user of the electronic auction web site" (Claim 24); "debiting an account of the plurality of accounts and crediting at least one account" (Claim 28); and "by debiting an account of the plurality of accounts and crediting at least one account corresponding to the operator" (Claim 30).

As stated above, the claims which were before the BPAI recited that Applicants' payment accounts, payment account and accounts are/is **configured for storing funds**. The BPAI determined that this limitation can be construed that the payment accounts, payment account and accounts are/is capable of storing funds (not that the payment accounts, payment account and accounts store funds) and concluded that the main reference, i.e., Bogosian et al., which teaches using credit card to effect payments (not stored funds within payment accounts) reads on this claim limitation. See BPAI decision of August 22, 2007, page 15, lines 1-9; page 18, lines 1-9; page 19, lines 1-6; see

also BPAI decision of January 10, 2008, page 3, line 14 to page 4, line 3; page 5, lines 13-22. It is respectfully submitted that at least the new claim amendments to independent Claims 1, 14, 21, 24, 28 and 30 patentably distinguish Applicants' claims over Bogosian et al. and Hambrecht et al., taken alone or in any proper combination, since the combination of references do not disclose or suggest all of Applicants' claimed features, especially payment accounts storing funds therein and using the stored funds to effect payment. The dependent claims are therefore also patentable over the prior art of record for at least their dependency from the respective independent claims. Accordingly, allowance of Claims 1-34 is respectfully requested.

New Claims 32-57 include independent Claims 35, 38, 39, 40, 41, 43, 45, 51, 52, 53, 54 and 56. As with the amendments to independent Claims 1, 14, 21, 24, 28 and 30, Applicants also used guidance provided by the BPAI to draft new independent Claims 35, 38-41, 43, 45, 51-65 and 56. These new independent claims recite storing funds and storing actual funds within an electronic auction payment account, account, and accounts and these funds are used for effecting payment.

In particular, new independent Claim 35 recites "wherein at least a portion of any debited funds [for effecting payment] correspond to funds transferred to the electronic auction payment account and **stored therein** prior to debiting the electronic auction payment account." New independent Claim 38 recites "each of said plurality of electronic auction payment accounts **storing actual funds therein** and said actual funds capable of being used for user transactions in the electronic auction system."

New independent Claim 39 recites "where each of the plurality of electronic auction payment accounts **store actual funds therein**." New independent

Claim 40 recites “where each of the plurality of electronic auction payment accounts **store actual funds therein**...a computing device including application software for maintaining the plurality of electronic auction payment accounts and for automatically effecting payment to the seller by accessing the database and **debiting actual funds stored within the electronic auction payment account** corresponding to the winning bidder.”

New independent Claim 41 recites “each of said plurality of accounts **storing actual funds therein**... for periodically effecting payment for the at least one of the plurality of online auction registered users by **debiting actual funds stored within an account of the plurality of accounts.**” New independent Claim 43 recites “each of said plurality of accounts **storing actual funds therein**...for automatically effecting payment for at least one of the plurality of online auction registered users by **debiting actual funds stored within an account of the plurality of accounts.**”

New independent Claim 45 recites “each of said plurality of electronic auction payment accounts **storing funds therein and not information relating to sources which can be used to initiate payment**, such as credit card information.” New independent Claims 51, 52, 53, 54 and 56 recite similar language. This language is found in Applicants’ specification at page 12, lines 14-18 and it patentably distinguishes Applicants’ claimed payment method using stored funds for effecting payment over the credit card payment methodology described by Bogosian et al.

New dependent claims are also patentable over the prior art of record for at least their dependency from their respective independent claims.

